IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7 OF 2006

1. Sanjay Jagannath Phagnekar
2. Jagannath Sonu Phagnekar. ...Applicants

V/s.

State of Maharashtra. ...Respondent

Mr.P.D. Dalvi for Applicants.
Ms.R.M. Gadvi, APP for State.

CORAM : V.M. KANADE, J.

DATED : JANUARY 10, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. This is an application for anticipatory bail filed on a complaint lodged by the wife of the applicant alleging that the applicant has committed an offence punishable under Section 498A, 352, 504, 506 read with Section 34 of the IPC.

2. Learned Counsel appearing on behalf of the applicants submitted that similar complaints were filed

by the complainant in the past and the applicant had filed application for anticipatory bail. However, the police made a statement in the said application they do not wish to proceed and continue the investigation of the said case as they noticed that averments in the complaint were not factually correct. Thereafter, second complaint is filed on the same set of facts and after the divorce proceedings were filed by the applicant, this complaint has been filed. It is submitted that this complaint is filed only for the purpose of harassing the applicant and has been filed maliciously as a counter blast to the divorce proceedings which are filed by the applicant.

3. Learned APP has invited my attention to the averments in the third complaint and has submitted that the allegations in the third complaint pertain to subsequent events which are not related to the earlier complaints. She has further submitted that from the complaint, it can be seen that the grievance of the complainant is that applicant and his family members had tried to push her out of the car and also tried to pour

kerosene on her when she was residing with her husband.

4. In my view, prima facie case is made for grant of anticipatory bail. Admittedly, this is third complaint filed by the wife. The earlier two complaints which were filed by the wife, after investigation by the police it was found that the allegation in the complaint is not correct. This third complaint admittedly has been filed after the divorce proceedings have been filed. Further the complainant is no longer staying in the matrimonial house and is presently residing with her sisters. In this view of the matter, I am of the view that the applicant has made out a case for grant of anticipatory bail.

5. In the event of the applicants' arrest in connection with C.R.No.I-160/05 registered at Badlapur Police Station, District Thane, under Sections 498A, 352, 504, 506 read with Section 34 of the IPC, the applicants to be released on bail in the sum of Rs.5000/- each with one or two surety in the like amount. The applicants to report to the Badlapur Police

Station for a period of one week as and when called between 11.00 a.m. to 5.00 p.m.

. Application is allowed in the above terms and is disposed of, accordingly.

(V.M. qKANADE, J.)